



## **Tax Increment Financing: Background and Explanation of HB 549**

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**A PRESENTATION TO THE STATE TAX  
INCREMENT FINANCING COMMISSION**



# Road Map



- Legislative history of Tax Increment Financing (hereafter TIF) laws
- TIF terms and concepts
- HB 549 Provisions
  - Nomenclature of HB 549
  - 4 TIF programs established
  - Project requirements
  - Process sequencing
  - Signature TIFs prior to 1/1/08

# TIF Legislative History

- HB 852 (Chapter 358 Acts) – 2000 Regular Session
- SB 372 (Chapter 326 Acts) – 2000 Regular Session
- SB 47 (Chapter 133 Acts) – 2001 Regular Session
- HB 372 (Chapter 338 Acts) – 2002 Regular Session
- HB 549 – 2007 Regular Session

# Old Statutory Vehicles

- KRS 65.490 – State Pilot TIF
  - Office of the Governor
  - Only cities of the 1<sup>st</sup> class
- KRS 65.6581 – Wage Assessments
  - Repealed but includes Grandfathering language
- KRS 65.6971 – Infrastructure TIF
  - Commerce or Economic Development
  - Limited to ad valorem taxes for State participation
  - Not restricted to cities of the 1<sup>st</sup> class
- KRS 65.6972 – Project Specific TIF
  - Commerce or Economic Development
  - Wide array of funding mechanisms
  - Not restricted to cities of the 1<sup>st</sup> class



# Kentucky Active TIF Projects

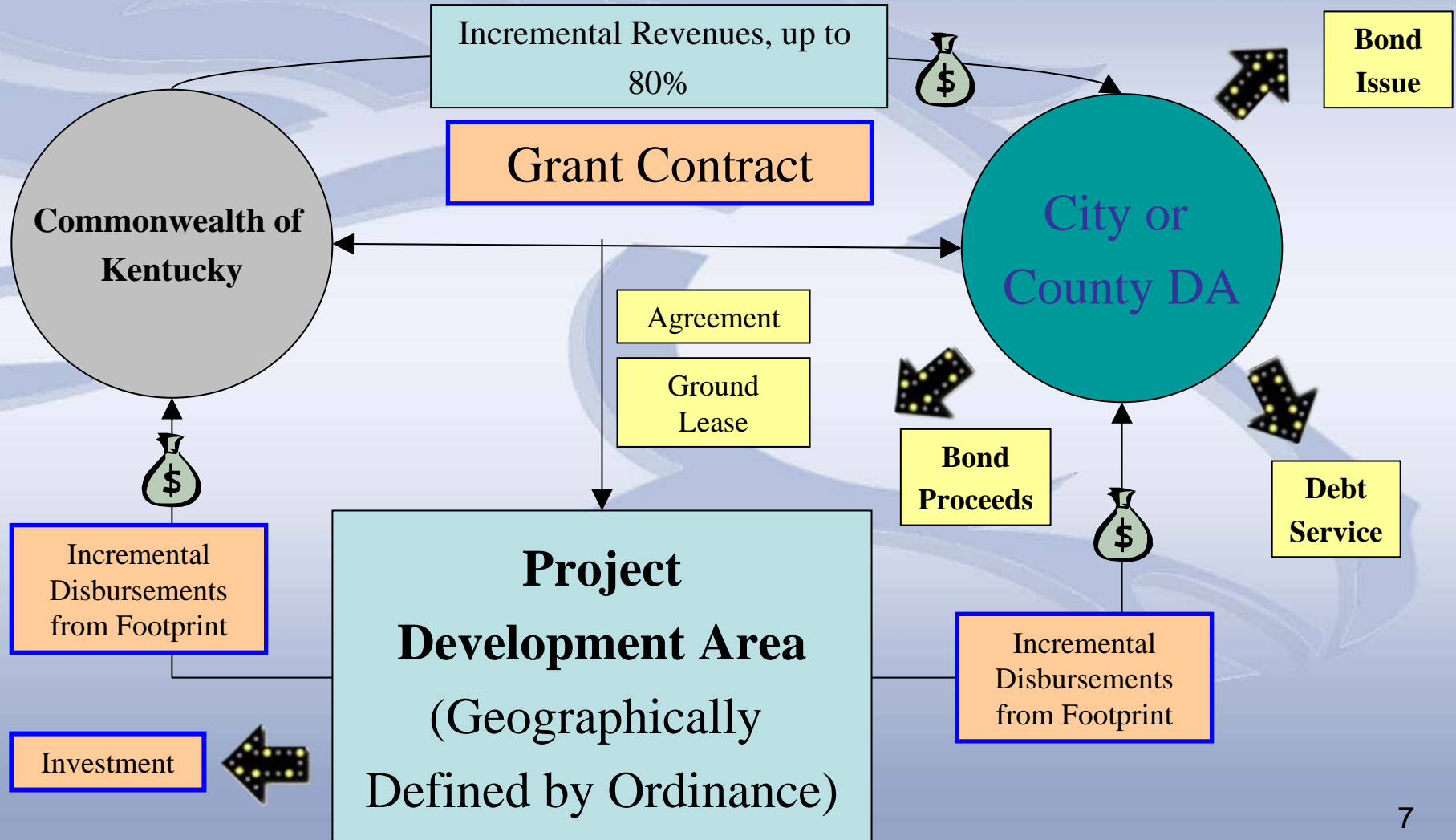
- Current Projects include:
  - Louisville Downtown Marriott Hotel (KRS 65.6972)
  - Churchill Downs Renovation (KRS 65.6972)
  - Louisville Airport Renaissance Zone (KRS 65.490)
  - Louisville Arena (KRS 65.490)



# TIF Terms and Concepts

- Certain terms are consistent across all TIF laws
  - **Old Revenues** (Inclusive of any projected increases to the revenue base for the project footprint)
  - **New Revenues** (Actual tax collections from the footprint of the project)
  - **Increment** = New Revenues in each year less Old Revenues projected for the same year
  - Percentage of Increment Recovery
  - Approved Costs (Limiting Factor on Recovery)
  - Funding Mechanism (Taxes used in Recovery)

# State TIF: Traditional Arrangement



# Theory of TIF Agreements

## (TIFs with State Participation)

- Consistent with Kentucky's overall objective of “performance-based incentives”, as opposed to grants.
- “Self-Policing”, meaning that if the development does not meet the financial projections, then the increment does not materialize and no tax increment payments are processed.
- Transfers risk away from the Commonwealth and back to the project developer.
- Limits the financial exposure of the State.

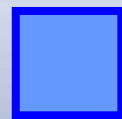
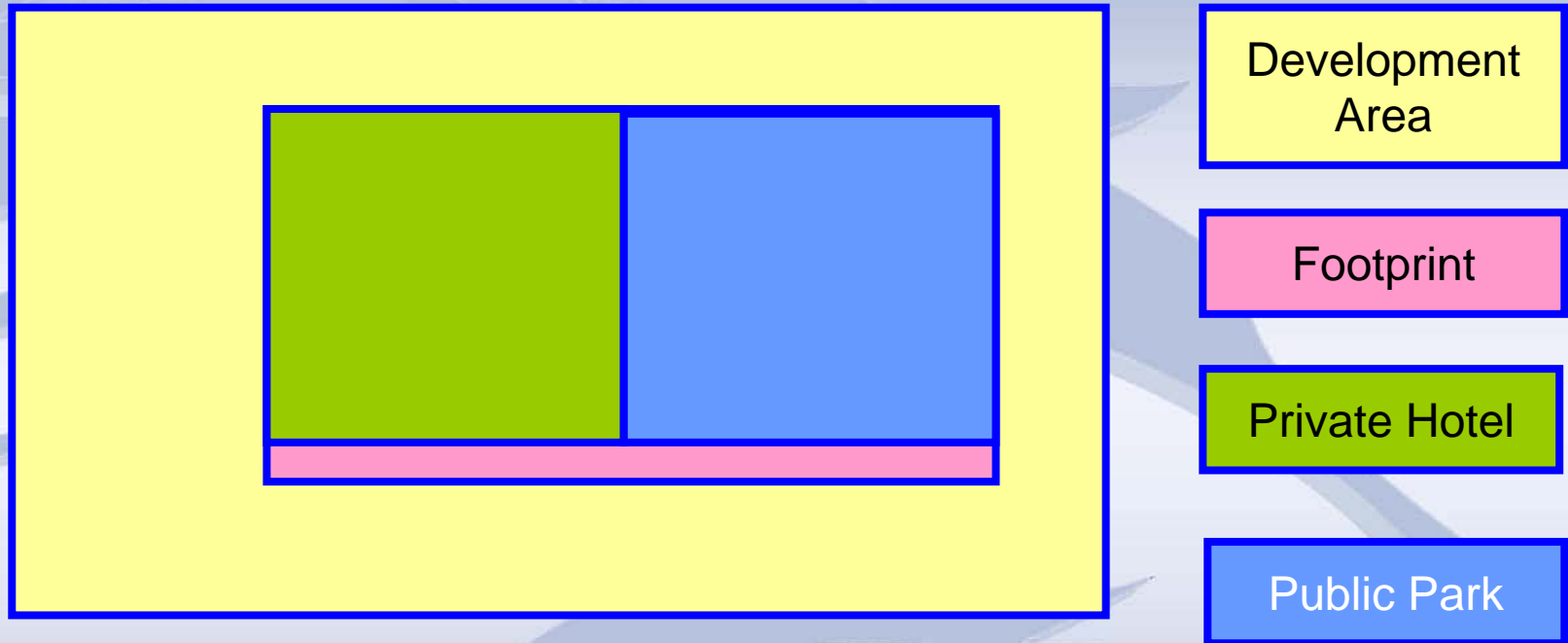


# The New Sheriff: HB 549

## Emphasis on Public Infrastructure

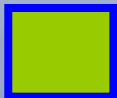
- HB 549 made two substantial changes from the pilot TIF legislation (KRS 65.490)
  - Recoverable development costs are limited to public infrastructure improvements
  - **Tax base** for increment recovery is limited taxes generated from the **footprint** of the project, including tax revenues generated from public and private investments
- Since many times public infrastructure does not produce incremental revenues sufficient to recover the investment, incremental taxes from the private portion of the development can be approved to provide a recovery mechanism for the public investment

# Illustration of Public/Private Dichotomy



=

No Statutory  
Minimum



+



=

Taxes used for  
Recovery

≡

Signature:  
\$200 million

# Tax Increment Financing Programs

established in HB 549, 2007 Regular Session

- Local Only – Section 9 (No Commission Oversight)
- Commonwealth Participation Program for Real ad valorem Tax Revenues – Section 17
- Commonwealth Participation Program for Mixed Use Redevelopment in Blighted Urban Areas – Section 19
- Signature Project Program – Section 18
  - Project grant agreements before 1/1/2008
  - Project grant agreements after 1/1/2008

	Tax Increment Financing (TIF) Options after Statutory Changes in HB 549, Enacted Version				
Common Name	Local Only		State Real Property Tax	Blighted Urban Mixed Use	Signature TIFs
Bill Section	Section 4 Vacant Land	Sections 5,6,7 Redevelopment	Section 17	Section 19	Section 18
Includes Accountability Language	No	Local Accountability	Yes	Yes	Yes
Minimum Threshold Investment	No Minimum	No Minimum	\$10 million	\$20 million to \$200 million	\$200 million
Funding Mechanism	Not Eligible for State participation	Not Eligible for State participation	Must meet requirements for Local Only Redevelopment TIF	Must meet requirements for Local Only Redevelopment TIF	Must meet requirements for Local Only Redevelopment TIF for projects after 1/1/08
State Property Tax	No	No	Yes	Yes	Yes
Local Taxes	Yes	Yes	Yes	Yes	Yes
Individual Income Tax	No	No	No	Yes	Yes
Corporation Income Tax	No	No	No	Yes, Including 141.0401	Yes, Including 141.0401
Sales Taxes	No	No	No	Yes	Yes
Sales tax refund during construction	No	No	No	No	Yes
Other Taxes	No	No	No	No	Local Transient Room Taxes for Cities of 1st Class
Percent Recovery (amount that can be recovered)	No State Revenues	No State Revenues	Up to 100% Of Approved Public Infrastructure Costs	Up to 100% Of Approved Public Infrastructure Costs and land preparation, demolition and clearance	Up to 100% Of Approved Public Infrastructure Costs and Approved Signature Costs less amount of sales taxes paid on public portion
Recovery of Debt Service	No	No	No	No	Yes
Percent of Increment	Up to 100%	Up to 100%	Up to 100%	Up to 80%	Up to 80%
Certification of Net Positive Economic Impact	No	No	No	Yes by Finance, Revenue, OSBD	No prior to 1/1/08 Yes after 1/1/08
Consultants Report?	No	No	No	Outside Consultant Report/Financial Analysis	No prior to 1/1/08 Yes after 1/1/08
Requires State Commission Approval	No	No	Yes	Yes	Yes
Retail Restrictions	None	None	20%	Must be Mixed Use No establishment over 20,000 Sq ft	20%
Size of Development Area	Up to 3.0 Square Miles	Up to 3.0 Square Miles	Up to 3.0 Square Miles	Up to 3.0 Square Miles	Up to 3.0 Square Miles
Footprint Language?	No	No	Yes	Yes	Yes
Duration of Agreement	Up to 20 Years	Up to 20 Years	Up to 20 Years	Up to 20 Years	Up to 30 Years

# Property Tax TIF Program

- Represent new economic activity
- Minimum Capital Investment -- \$10 million
- 20% retail restriction
- Up to 100% of the real property tax increment may be pledged
- Pledged amount shall not exceed 100% of approved public infrastructure costs
- Amounts can be pledged for a maximum of 20 years
- Restricted to the footprint of the capital investment

# Blighted Area Mixed-Use TIF Program

- \$20 to \$200 million in Capital Investment
- Mixed Use in Scope
  - At least 2 of the 5 uses (Retail, Residential, Office, Restaurant, Hospitality)
- At least 3 conditions for the development area “blight”
- Net Positive economic impact, as certified by consultant’s report
- Up to 100% of the approved public infrastructure costs, and costs related to land preparation, demolition, and clearance
- Income taxes, sales taxes, and property taxes



# Signature Project TIF Program

(Grant Agreements Approved **prior to 1/1/2008**)

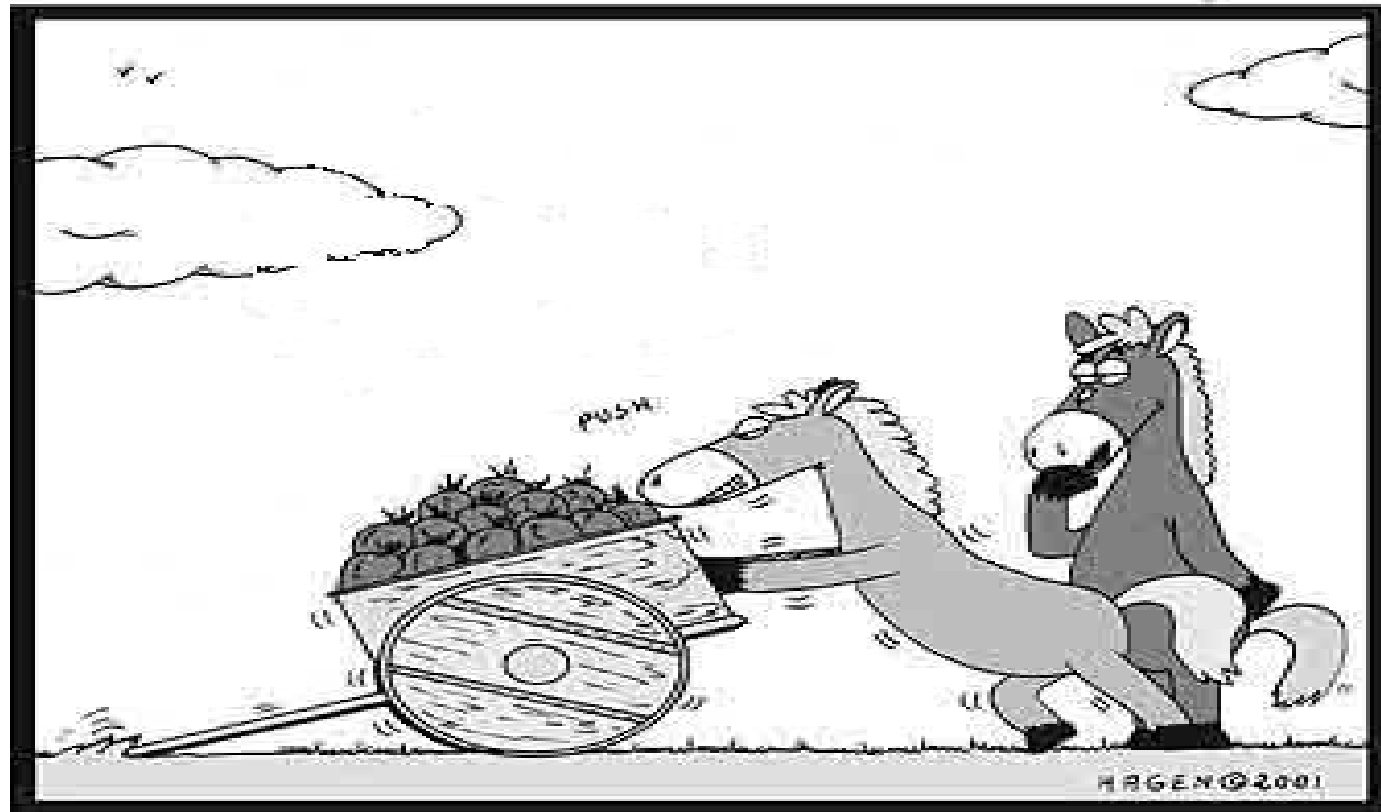
- At least \$200 million in Capital Investment
- New economic activity
- At least 2 conditions for the development area qualification criteria
- Up to 100% of the approved public infrastructure cost – and – 100% of approved signature project cost eligible for recovery
- Financing costs eligible for recovery
- Income, Sales, and property taxes, **plus local transient room taxes** eligible for recovery
- Upon approval, recovery of sales tax on the purchase of construction materials for private investment

# Signature Project TIF Program

(Grant Agreements Approved **after 1/1/2008**)

- At least \$200 million in Capital Investment
- At least 2 conditions for the development area qualification criteria
- **Not more than 20% of the approved project costs or 20% of the finished sq footage devoted to retail**
- **Net Positive economic impact, as certified by consultant's report**
- Up to 100% of the approved public infrastructure cost – and – 100% of approved signature project cost eligible for recovery
- Financing costs on public infrastructure eligible for recovery
- Income, sales, and property taxes eligible for recovery
- Upon approval, recovery of sales tax on the purchase of construction materials for private investment

# Where Do I Sign Up?



Hang on... We must be doing something wrong...  
How does the saying go again?

# Statutory Application Process

- Section 5 requirements
  - Local government findings
    - Development would not occur without public investment
    - Benefits outweigh public costs
    - Surrounding area undeveloped – or –
    - If it has, why the development area needs public investment to be developed
    - Governing body determination that the blight requirements are met

# Additional Statutory Requirements

- Section 6 requirements
  - Adoption of a “local development plan”
    - Documentation of Section 5 findings
    - Detailed uses of existing properties
    - Detailed maps showing improvements, both public and private
    - Documented local re-development assistance
    - Zoning, permitting, local building requirements
  - Public Hearings (after local development plan has been finalized)

# Additional Statutory Requirements

- Section 7 requirements
  - Enactment of an ordinance establishing a development area including all of the provisions of Section 7, subsection 1, paragraphs (a) through (m)
- Meetings with local fiscal officials to ascertain the level of local tax effort, as applicable



# Signature Projects before 1/1/08

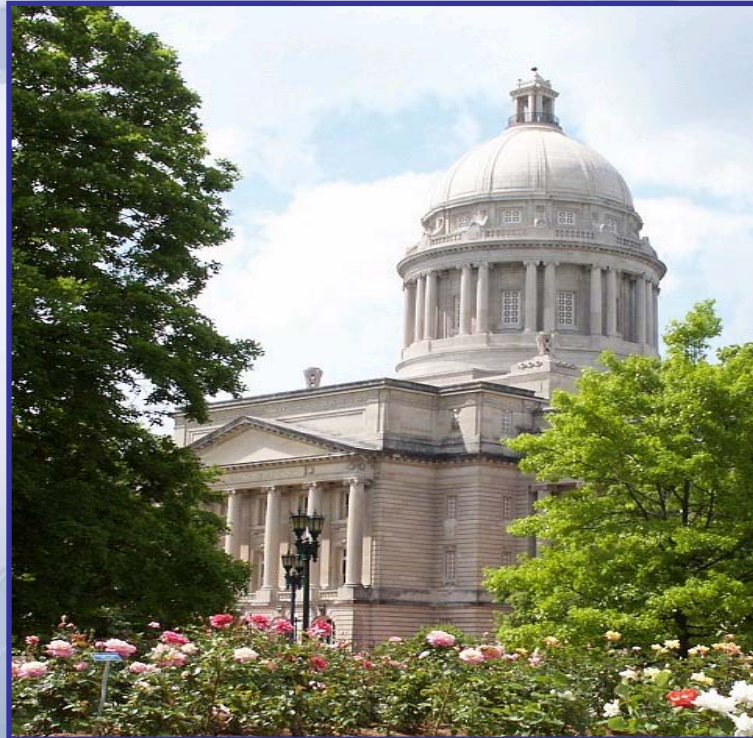
- Relaxed requirements in Section 5
- Section 6 requirements relaxed or eliminated
- No retail determinations
- Relaxed requirements in Section 7
- No consultant's report, no required certification of net positive economic impact beyond the affirmation that the project satisfies the requirement of new economic activity.

# Application Process

(Division of Tax Increment Financing, Office of the Commissioner,  
Department of Revenue)



# Questions??





**Thank you for  
your attention!**

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